

2006-16

May 14, 2008

Dear Justices:

I object to the recommendation to change MCR 6.302(C) so as to prohibit all plea discussions with the parties, because the prohibition is overbroad.

During more than 18 years on the circuit bench I have steadfastly refused to engage in "Cobbs pleas", by which the court engages in sentence negotiations with counsel.

HOWEVER, occasionally the attorneys will ask me to advise, prior to plea or presentence investigation, whether Holmes Youthful Trainee status would be at all within the realm of possibility given the charges brought against a young defendant. They seek that advice from the court, absolutely without commitment by the court for such disposition, so as to avoid wasting their time (and perhaps raising false expectations) when such a result is out of the question. This is a salutary purpose for such an informal conference under these limited circumstances, and I would hate to have it prohibited by you in the name of uniformity with the feds.

Please either leave the rule as is, or carve an exception in your proposal to allow us to continue this rare by useful practice.

Judge Roy Gotham  
C32  
Courthouse, 200 N. Moore St.  
Bessemer, MI 49911